

1 STATE OF MINNESOTA DISTRICT COURT

2 COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

3 Charles Everett Cook, Sylvia Mae Cook,
4 and Timothy Blake Cook, natural persons,

5 Plaintiffs,

6 v.

7 City of Minneapolis, a municipal entity; Minneapolis
8 Police Officer Mark Johnson, Badge #003459, in his
9 individual, personal and official capacity; Sgt. D.
10 Smulski, in his individual, personal and official
11 capacity; Officer K. Blackwell, in his individual,
12 personal and official capacity; Officer Geoffrey
13 Toscano, Badge #007257, in his individual, personal and
14 official capacity; Officer Bevan Blauert, Badge
15 #003459, in his individual, personal and official
16 capacity; Officer Jon Petron, Badge #5671, in his
17 individual, personal and official capacity; Officer
18 Christopher House, Badge #3165, in his individual,
19 personal and official capacity; Sgt. Robert Kroll,
20 Badge #003874, in his individual, personal and official
21 capacity; Officer Christie Nelson, Badge #4959, in his
22 individual, personal and official capacity; Officer
23 William Willner, Badge #7783, in his individual,
24 personal and official capacity; Officer Westlund, Badge
25 #7674, in his individual, personal and official
capacity; Officer Roger Smith, Badge #006689, in his
individual, personal and official capacity; Officer
Jason King, Badge #003704, in his individual, personal
and official capacity; Officer Timothy Hanks, Badge
#002660, in his individual, personal and official
capacity; and Officers Jane Doe and Richard Roe,
unknown and unnamed Minneapolis Police Officers, in
their individual, personal and official capacities;

20 Defendants.

21 *****

22 DEPOSITION OF
23 OFFICER BEVAN BLAUERT

24 Taken March 28, 2007
25 Scheduled for 12:15 p.m.

Reported By: Lori Morrow, RPR, CRR
25 PARADIGM REPORTING & CAPTIONING INC. (612) 339-0545

the 1 Deposition of OFFICER BEVAN BLAUERT, taken on
the 2 28th day of March, 2007, commencing at 12:48 p.m., at
3 CITY OF MINNEAPOLIS ATTORNEY'S OFFICE, 333 South 7th
4 Street, Suite 300, Minneapolis, Minnesota, before Lori
5 Morrow, Registered Professional Reporter and Certified
6 Realtime Reporter and a Notary Public in and for the
7 State of Minnesota.

8

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APPEARANCES:

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On Behalf of the Plaintiffs:

11

Maya C. Sullivan, Esquire
LAW OFFICE OF MAYA C. SULLIVAN, L.L.C.
941 Hillwind Road NE
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On Behalf of the Defendants:

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Tracey L. Nelson, Esquire
CITY OF MINNEAPOLIS ATTORNEY'S OFFICE
333 South 7th Street
Suite 300
Minneapolis, Minnesota 55402
(612) 673-2063

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delivered 21 NOTE: The original transcript will be
applicable 22 to Maya C. Sullivan, Esquire, pursuant to the
Rules of Civil Procedure.

23

24

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3

1 INDEX

2 WITNESS:

3 Officer Bevan Blauert

4 EXAMINATION BY: PAGE:

5 Ms. Sullivan.....4

7 OBJECTIONS BY:

8 Ms. Nelson.....8

9 EXHIBITS MARKED AND REFERRED TO: (NONE)

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1 OFFICER BEVAN BLAUERT,
2 duly sworn, was examined and testified as follows:

3 EXAMINATION

4 BY MS. SULLIVAN:

5 Q Officer Blauert, as I said, my name is Maya
6 Sullivan, and I am one of the attorneys representing the
7 Plaintiffs in this matter. The other one is Albert
8 Goins.

9 Just for the record, can you initially state and
10 spell your name, first and last names.

11 A My first name is Bevan, B-E-V-A-N, and last name
12 Blauert, B-L-A-U-E-R-T.

13 Q Thank you. And have you taken part in
14 depositions in the past?

15 A Yes.

16 Q Okay. I just want to give you a few reminders
17 about procedure while we're here doing the deposition.

18 First, I will ask that when you're responding to
19 questions that you give verbal answers. Don't nod your
20 head or shake your head or say "uh-huh," that type of
21 thing. Please make it clear for the record.

22 And at times your attorney may object or give
23 you different types of instructions regarding answering
24 questions. Please make sure that you wait for her to
25 give you the instructions that may be necessary. Do you

5

1 have any questions at this point?

2 A No.

3 Q Okay. Thank you. Officer Blauert, who is your
4 employer?

5 A City of Minneapolis Police Department.

6 Q All right. How long have you been employed by
7 the Minneapolis Police Department?

8 A Fifteen years.

9 Q And prior to working for the Minneapolis Police
10 Department, were you an officer elsewhere?

11 A No.

12 Q Were you in a different, completely different
13 field?

14 A No.

15 Q You were in the law enforcement field?

16 A No. I was a student.

17 Q Okay. Over the 15 years that you have worked
18 for the Minneapolis Police Department, have your
19 assignments changed?

20 A Yes.

21 Q And what is your current assignment?

22 A The Fifth Precinct.

23 Q All right. And at the time of the incident,
24 which was January 13 of '05, were you assigned to the
25 Fifth Precinct?

6

1 A Yes.

2 Q Okay. Were you assigned to any particular team?

3 A No. I was working the street that day, I
4 believe.

5 Q Okay. Did you receive special training
6 regarding conducting high risk entries?

7 A Yes.

8 Q Okay. And how long ago did you start working
9 with or participating in those type of entries?

10 A I've been doing high risk warrants for
11 approximately 10 years.

12 Q Okay. Have you received any specific training
13 regarding conducting -- excuse me. I have a cold. I
14 apologize -- regarding conducting high risk warrants when
15 there are elderly or ill individuals in the residence or
16 in the home?

17 A We conduct high risk warrants with all ages,
18 shapes, sizes, races. It doesn't matter.

19 Q Okay. I guess what I'm trying to get at is
20 whether or not you would approach a perfectly healthy
21 adult person the same way that you might approach, say,
22 an ill adult that you see or encounter, or an elderly
23 adult who you encounter in these circumstances?

24 A I don't believe we've received any training in

25 specific to age. However, I have done high risk warrants

7

1 with elderly individuals.

2 Q So you said you don't receive training regarding
3 age. But you do have experience. I guess that's what
4 you're saying --

5 A Correct. Everybody is treated the same in a
6 high risk warrant.

7 Q Were you part of the team that entered 3845
8 Second Avenue South in Minneapolis on January 13 of 2005?

9 A Yes.

10 Q And what information were you provided regarding
11 the residence or what you were going to do on that day?

12 A I received very little information. I came in
13 as an extra because they needed more bodies for the
14 warrant. I was with the understanding that we were
15 entering the house with a search warrant or arrest
16 warrant for an individual wanted for robbery who had a
17 history of weapons.

18 Q And did you receive a description of the
19 individual you were looking for?

20 A I did. But I don't recall.

21 Q Can you describe the entry into the home?

22 A I don't recall the exact entry into the home. I
23 don't remember if the door was open or not.

24 Q Okay. Can you describe what happened once you

25 all entered the home?

8

1 A I believe when we entered the home I was
2 probably the last team member through the door. I was
3 presented with a room full of women. I believe they were
4 on a couch, and they already had their hands in the air.

5 Q Did you see any children?

6 A I believe there was at least four women and
7 multiple children.

8 Q Did the children have their hands up?

9 A I don't recall.

10 Q Do you recall the demeanor of the women or the
11 children when you entered?

12 A Repeat. I didn't hear you.

13 Q Sorry. Did you recall the demeanor,
14 D-E-M-E-A-N-O-R. Sorry.

15 A The demeanor? They appeared shocked, which is
16 normal for high risk warrants, because they don't know
17 that we're coming.

18 Q And, in fact, children probably wouldn't have
19 known anything about you coming anyway, whether it was
20 high risk or not, correct?

21 MS. NELSON: Objection, calls for
22 speculation.

23 BY MS. SULLIVAN:

24 Q I just want to clarify. You said they appeared
25 shocked, the children appeared shocked because they

9

1 didn't know you were coming.

2 A Everybody appeared shocked because they didn't
3 know we were coming.

4 Q All right. So you came in, and you saw the
5 women, and you saw the children. Did anyone -- did you
6 hear anyone ask for a search warrant?

7 A After some time, I believe there was somebody
8 that asked for a search warrant.

9 Q Do you recall if that was a woman or a man?

10 A I believe that was an elderly male, but that was
11 some time into the warrant.

12 Q You didn't see the elderly male when you
13 initially entered the home?

14 A I'm having a hard time hearing you. Can you say
15 it again?

16 Q I said you did not see the elderly man when you
17 initially entered the home?

18 A No.

19 Q Okay. At what point did you see him?

20 A That was after the living room area was secured
21 with the women and children. In other words, they
22 appeared to be under control. They were explained just
23 to relax and keep their hands in the air because we were

24 conducting a high risk warrant.

25 Q Okay. And then where did the elderly man come

10

1 from?

2 A I encountered him in, I think it was the
3 staircase area. And I believe what I heard was Officers
4 had encountered him and were encountering difficulty with
5 him.

6 Q Okay. Did you have any kind of interaction with
7 the elderly man?

8 A I don't believe I did, no, not at that point.

9 Q At what point did you have interaction with him?

10 A I believe it was quite some time later. What
11 happened is he was delaying the team during the course of
12 the high risk warrant. It jeopardizes our safety as well
13 as the safety of everybody in the house. He was
14 instructed to get down on the ground and stay down on the
15 ground, which is our routine. He was not complying with
16 those requests. I believe I was then requested by
17 Sergeant Kroll to handcuff this individual so we could
18 continue on with our high risk warrant.

19 Q This is the elderly man that you --

20 A I believe it was, yes. I don't know what his
21 name was.

22 Q And do you recall whether or not the elderly

23 gentleman was at one point made to lie on the ground?

24 A Repeat.

25 Q Do you recall if he at any point during this

11

1 incident was lying on the ground?

2 A Yes, he was lying on the ground when I
3 handcuffed him.

4 Q How did he get to the ground?

5 A I have no idea.

6 Q How close would you say you were to him distance
7 wise, approximately?

8 A When I handcuffed him?

9 Q Uh-huh.

10 A I had to get within touching distance of him.

11 Q Were you kneeling like on your knees, or were
12 you standing up and leaning over to do it?

13 A I was standing when I handcuffed him.

14 Q Okay.

15 A We did so with the utmost care with him, because
16 he appeared not to be a threat to me. Although, like I
17 said, he was impeding our progress in the high risk
18 warrant. I believe he was later charged with
19 obstruction.

20 Q The elderly gentleman?

21 A Correct.

22 Q I think you might have it confused there. But

23 going on, did you notice -- I'm sorry. Strike that.
24 How close was your face to his face when you
25 were cuffing him?

12

1 A I don't recall.
2 Q I'm just trying to visualize the scene. Were
3 you -- when you leaned over to cuff him, or when you lean
4 over to cuff individuals in this type of a seated
5 position or lying position, do you normally get close to
6 their face at all for any reason?
7 A No.
8 Q Okay. Did you notice a stint coming out of the
9 elderly gentleman's neck?
10 A I don't recall, no.
11 Q You said you treated him with the utmost care
12 because he didn't pose a threat. Is that correct?
13 A What I saw what he was doing was he was holding
14 the team up in the execution of a warrant. In that case,
15 he was creating a dangerous situation for us, because we
16 cannot execute our job.
17 Q Okay. But my question is -- I'm just trying to
18 clarify. You said you treated him with the utmost care
19 because he did not pose a threat or didn't appear to pose
20 a threat?
21 A He was not a threat to me.

22 Q Okay. And had he been a threat to you, what
23 would you have done differently?

24 A I would have handcuffed him immediately.

25 Q Was there another male in the area while you

13

1 were purveying the incident?

2 A I don't recall if there was one or two males
3 involved in this. There was a lot going on.

4 Q Okay. Are you one of the officers who went to
5 the upper level or the lower level of the home?

6 A I don't believe I ever left the front room area.

7 Q Okay. You said you heard the elderly gentleman
8 ask for a warrant or ask for the search warrant. At what
9 point was it provided to him or while you were in the
10 home?

11 A During the execution of a high risk warrant, we
12 do not provide a search warrant. We advise them to get
13 down, and then the search warrant is usually provided by
14 the investigators after the apartment has been secured.

15 Q So did you advise the Plaintiffs in this matter
16 that they would receive a search warrant, be able to view
17 the search warrant later?

18 A I didn't advise anybody anything other --

19 Q Okay. So --

20 A -- than to get down and be quiet.

21 Q Okay. So when they were asking for the search

22 warrant, there was no response basically?

23 A Not from myself.

24 Q Okay. Did you hear a response?

25 A I don't recall.

14

1 Q Do you normally respond if someone were to ask
2 for a search warrant during this type of an entry?

3 A On the hundreds that I've done, usually not.

4 Q Usually you don't respond at all?

5 A Usually we tell them there will be one coming.

6 Q Okay.

7 A And it will be all explained to you after
8 everything is safe.

9 Q Okay. But in this particular case, you nor
10 anyone else told them that there was a warrant coming?

11 A I don't recall.

12 Q Okay. You said that you didn't tell them, so
13 let's just break the question down into two. During this
14 particular incident, you did not tell them a warrant was
15 coming, did you?

16 A I did not, no.

17 Q Okay. And you don't recall whether or not
18 anybody else told them that one was on its way?

19 A That's correct.

20 Q Okay. As a result of this incident, are you

21 aware of whether the robbery suspect was arrested?

22 A I believe he was apprehended, correct.

23 Q Did you see him?

24 A I don't recall.

25 Q Do you know if anyone else was arrested as a

15

1 result of the incident?

2 A Like I stated earlier, I believe it was an
3 elderly gentleman, but I don't have any names or anything
4 like that.

5 Q I'm not asking for a name. I'm just asking if
6 you know of anybody else who was. At the point that you
7 entered the residence, where were you in the succession
8 of officers coming in? Were you first, were you last,
9 were you in the middle somewhere?

10 A As stated earlier, I was probably the last
11 person into the room, into the residence.

12 Q Did you have the ram?

13 A I believe I was assigned to the ram, correct.

14 Q Okay. Do you remember who you were assigned to
15 that with?

16 A No.

17 Q In your supplemental report, you indicate that
18 there was an uncooperative male. Was it your opinion
19 that he was uncooperative because he was asking for the
20 field sergeant and the search warrant or some other

21 reason?

22 A The reason he was uncooperative was he was not
23 complying with our requests to lie down on the ground and
24 was impeding the process of which we were conducting a
25 high risk warrant, was not complying with verbal

16

1 commands, therefore being uncooperative.

2 Q At the time you were conducting or participating
3 in the entry, did you ever go into the kitchen area of
4 the home?

5 A I don't believe so.

6 Q Do you recall the weather that day?

7 A No.

8 Q Do you think it would be safe to assume that it
9 was cold since it was January in Minnesota?

10 A I don't recall.

11 Q Okay. I just want to get an understanding about
12 something here. You said that you did know that the
13 elderly gentleman was lying on the ground or had been
14 placed on the ground, and you believe that you cuffed
15 him. At the time he was lying on the ground, do you
16 recall anyone asking for a blanket to cover him up
17 because of the cold air coming in?

18 A I don't recall. It was inside. I wouldn't
19 believe that would be something that would happen.

20 Q Is that something you believe would happen if
21 the door was standing wide open?

22 A That's speculation. I don't think so, no.

23 Q I'm sorry. You don't think that if the door was
24 standing wide open someone may ask for a blanket?

25 A During the conduction of a high risk warrant,

17

1 we're not interested in if people are cold or warm.

2 Q And that's even if you have an ill person who
3 may be increasingly becoming more ill because of the cold
4 air?

5 A Most high risk warrants from the time that we
6 enter to the time that we are exiting the house is less
7 than two minutes. So in the two minutes that I contact
8 the people that are inside the house, I don't care if
9 they're warm or cold.

10 Q Okay. And you said you don't recall whether or
11 not anyone indicated they were cold or not?

12 A I don't recall, no.

13 Q Okay. All right. Do you know if anybody else
14 noticed whether there was a stint in the older man's neck
15 or not?

16 A I don't recall.

17 Q You state in your supplemental report that when
18 you entered the home that you were yelling loudly "police
19 search warrant." Were you the only one yelling that?

20 A That's usually common procedure. If I put that
21 in a report, it would be a correct reflection of what I
22 did.

23 Q I'm asking whether or not you were the only one
24 who was doing that or not.

25 A I don't recall.

18

1 Q Are you normally the only one who yells it?

2 A Normally, more than one officer is yelling it as
3 we are breaching the door for our safety.

4 Q Okay. Is it normal for all of the officers to
5 yell it?

6 A I don't know if I can answer that or not.
7 Sometimes it happens, sometimes it doesn't, as long as
8 the announcement is made.

9 Q Okay. You've conducted several hundred of these
10 types of entries, I believe you said earlier. Is that
11 correct?

12 A Correct.

13 Q Would you say like 500, closer to a thousand?
14 Just could you give me a ballpark figure?

15 A Can you rephrase? I'm not sure what you're
16 asking.

17 Q I said have you conducted 500, closer to a
18 thousand of these types of high risk entries? Can you

19 give me a ballpark figure?

20 A I would say over 200.

21 Q All right. And on these high risk entries that
22 you've conducted, how many, approximately again, I don't
23 need an exact number, have you conducted along with
24 Sergeant Kroll?

25 A Probably 50. I'm not sure.

19

1 MS. SULLIVAN: Okay. That's fine. I
2 don't have any more questions.

3 MS. NELSON: We'll read and sign.

4

5 (Deposition concluded at 1:08 p.m.)

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REPORTER'S CERTIFICATE

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3

STATE OF MINNESOTA)

) ss.

4

COUNTY OF HENNEPIN)

5

I hereby certify that I reported the deposition
of OFFICER BEVAN BLAUERT, on the 28th day of March,

2007,

6

in Minneapolis, Minnesota, and that the witness was by

me

7

first duly sworn to tell the whole truth;

a

8

That the testimony was transcribed by me and is
true record of the testimony of the witness;

9

That the cost of the original has been charged

to

10

the party who noticed the deposition, and that all
parties who ordered copies have been charged at the

same

11

rate for such copies;

attorney

12

That I am not a relative or employee or

13

or counsel of any of the parties, or a relative or
employee of such attorney or counsel;

14

That I am not financially interested in the
action and have no contract with the parties,

attorneys,

or
15 or persons with an interest in the action that affects
has a substantial tendency to affect my impartiality;

16 That the right to read and sign the deposition
by
the witness was reserved.

17
18 WITNESS MY HAND AND SEAL, this 31st day of
March,
2007.

19

20 _____
Lori L. Morrow, RPR, CRR
21 Notary Public, Hennepin County, Minnesota
My commission expires: January 31, 2010

22

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